

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #06	CCRB Case #: 202106267	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/08/2021 10:08 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 4/8/2023	Precinct: 48		
Date/Time CV Reported Sat, 10/16/2021 10:32 PM	CV Reported At: Other City agency	How CV Reported: E-mail	Date/Time Received at CCRB Sat, 10/16/2021 10:32 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Jason Garcia	18851	967885	048 PCT
2. PO Nicole Krauss	03187	961535	048 PCT
3. SGT Gaetjeans Doxy	03467	936518	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Richard Urbina	03262	918429	005 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Jason Garcia	Abuse: Police Officer Jason Garcia threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(g), § 87(4-b)
B . PO Nicole Krauss	Force: Police Officer Nicole Krauss used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
C . PO Jason Garcia	Force: Police Officer Jason Garcia used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
D . SGT Gaetjeans Doxy	Force: Sergeant Gaetjeans Doxy used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
E . PO Nicole Krauss	Discourtesy: Police Officer Nicole Krauss spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
F . PO Nicole Krauss	Abuse: Police Officer Nicole Krauss threatened to remove § 87(2)(b) to the hospital.	§ 87(2)(g), § 87(4-b)
G . PO Nicole Krauss	Abuse: Police Officer Nicole Krauss threatened § 87(2)(b) with the use of force.	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On October 16, 2021, § 87(2)(b) filed this complaint with the CCRB on behalf of himself and his friend, § 87(2)(b).

On October 8, 2021, § 87(2)(b) was over § 87(2)(b) apartment when § 87(2)(b) and her fiancé, § 87(2)(b) got into a domestic dispute in which officers were called. PO Jason Garcia, PO Nicole Krauss, PO Gaetjeans Doxy, and PO Richard Urbina of the 48th Precinct responded to the location. PO Garcia threatened to remove § 87(2)(b) to the hospital (**Allegation A – Abuse of Authority:** § 87(2)(g) § 87(2)(b) was upset that officers were taking § 87(2)(b) situation seriously when officers did not help him in the past, which he told to the officers. PO Krauss, PO Garcia, and Sgt. Doxy pushed § 87(2)(b) from the hallway into § 87(2)(b) apartment (**Allegations B, C, and D – Force:** § 87(2)(g) § 87(2)(b) cursed at PO Krauss and PO Krauss responded, “I’m about to fucking EDP you in two fucking seconds” (**Allegation E – Discourtesy:** § 87(2)(g) (**Allegation F – Abuse of Authority:** § 87(2)(g) § 87(2)(b) threatened to fight PO Krauss to which PO Krauss responded, “You want to fight me? Let’s go. No problem” (**Allegation G – Abuse of Authority:** § 87(2)(g) After the DIR was prepared, the officers left the location without making any arrests or issuing any summonses.

§ 87(2)(g), § 87(4-b)

Eight BWC videos of this incident were obtained and can be found in IAs #34-41. A summary of the footage can be found in IA #57 (**Board Review 01**).

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Jason Garcia threatened to remove § 87(2)(b) to the hospital.

On October 8, 2021, at approximately 10:08 p.m., § 87(2)(b) was over his neighbor’s, § 87(2)(b) apartment located at § 87(2)(b) in the Bronx. § 87(2)(b) had two beers – she was not intoxicated. While § 87(2)(b) was cooking, § 87(2)(b) got into a fight with her fiancé, § 87(2)(b) picked up a bat and threatened § 87(2)(b) removed the bat from § 87(2)(b) hands at which point § 87(2)(b) tackled him. Someone, § 87(2)(b) assumed either § 87(2)(b) or § 87(2)(b) called 911. Sgt. Doxy and PO Urbina arrived at the location and asked § 87(2)(b) to step out into the hallway. Approximately 17 minutes after Sgt. Doxy and PO Urbina arrived, PO Garcia and PO Krauss arrived at the location. § 87(2)(b) went to the doorway and began recording the situation on his phone. PO Garcia, who was in the hallway with the other officers and § 87(2)(b) was filling out paperwork. PO Garcia told § 87(2)(b) that he was sick and tired of responding to domestic incidents at the location. § 87(2)(b) made a comment, but § 87(2)(b) could not recall what she said. PO Garcia said, “Keep it up and I’m going to call the ambulance because you’re intoxicated.” § 87(2)(b) interjected and told the officers that she was not intoxicated (**Board Review 02**).

§ 87(2)(b) was uncooperative with the investigation. § 87(2)(b) was not interviewed as his testimony as not necessary to come to a conclusion for this allegation.

PO Garcia's BWC footage, starting at the 02:05 mark of the timestamp visible at the bottom of the screen, shows PO Garcia telling § 87(2)(b) that they keep fighting and they have to figure something out. § 87(2)(b) replies that she is in the process of moving out, and PO Garcia states that § 87(2)(b) has been saying the same thing for the past three months. § 87(2)(b) replies, “I ain’t no punk ass bitch.” PO Krauss tells § 87(2)(b) that no one is saying that she is. § 87(2)(b) tells PO Krauss that she was not talking to PO Krauss and states, “You gotta watch how you’re

talking to me bro.” At 02:35, PO Garcia states, “I’m two seconds away from calling an ambulance for you because you’re intox, alright? How about that?” § 87(2)(b) replies, “I’m gonna shut up” **(Board Review 04).**

PO Garcia testified that he responded to the location for a domestic incident. PO Garcia was familiar with § 87(2)(b) as the precinct received multiple calls to her apartment per day, and he has interacted with her more than ten times in the past. In more than one of these incidents, § 87(2)(b) had to be removed to the hospital for being in an intoxicated state or for psychiatric concerns. In prior encounters, § 87(2)(b) had rapidly shifting moods, from calm to belligerent, aggressive, or violent. During this incident, PO Garcia did not recall smelling alcohol on § 87(2)(b) breath or knowing for certain whether she was intoxicated. PO Garcia asked § 87(2)(b) to fill out a Domestic Incident Report (DIR). While § 87(2)(b) was filling out the DIR, § 87(2)(b) became angry at the officers, but PO Garcia did not recall what he was upset about. § 87(2)(b) anger riled § 87(2)(b) up and caused her to become belligerent. PO Garcia told § 87(2)(b) that he would remove her to the hospital for medical evaluation if she continued to be belligerent. PO Garcia described this as a de-escalation tactic that was based on the history of their relationship. In past encounters with § 87(2)(b) she has calmed down after PO Garcia told her that she was going to be removed to the hospital. PO Garcia could not recall if there were any indications that § 87(2)(b) was going to be a harm to herself or anyone else **(Board Review 03).**

Sgt. Doxy testified that he did not think that § 87(2)(b) was a harm to herself or others **(Board Review 05).**

PO Krauss testified that there was no indication that § 87(2)(b) could harm herself or others **(Board Review 06).**

An emotionally disturbed person is defined as a “person who appears to be mentally ill or temporarily deranged” who must be taken into protective custody if officers reasonably believe that the person is likely to injure themselves or others. The procedure notes that officers should attempt to slow the pace of the incident, establish dialogue with the emotionally disturbed person while awaiting specialized personnel, have the emotionally disturbed person removed to a hospital by ambulance, and ride in the body of the ambulance with the emotionally disturbed person. Additionally, officers may restrain the individual if appropriate and remove any property that is dangerous to life or will aid escape NYPD Patrol Guide Procedure 221-13 **(Board Review 07).**

It is undisputed that PO Garcia told § 87(2)(b) that he was going to call an ambulance for § 87(2)(b). PO Garcia testified that he has interacted with § 87(2)(b) several times prior in which her mood shifted rapidly and she needed to be removed to the hospital either because of intoxication or for a psychiatric concern. PO Garcia did not recall if there was any indication that § 87(2)(b) was a harm to himself or others, and did not recall her being intoxicated, and he testified that he used the threat as a de-escalation tactic. Although § 87(2)(b) testified that § 87(2)(b) threatened § 87(2)(b) with a bat, which would make her a danger to others, the BWC footage shows that PO Garcia was not privy to this information at the point in which he made the threat, nor did PO Garcia testify to it contributing to his rationale. Therefore, the investigation is unable to include the information in the analysis of this allegation. Lastly, the BWC footage does show § 87(2)(b) mood changing quickly, but it does not show her doing or saying anything that could reasonably be interpreted as § 87(2)(b) being a harm to herself or others in the officers’ presence.

§ 87(2)(g)

Allegation B – Force: Police Officer Nicole Krauss used physical force against § 87(2)(b)**Allegation C – Force: Police Officer Jason Garcia used physical force against § 87(2)(b)****Allegation D – Force: Sergeant Gaetjens Doxy used physical force against § 87(2)(b)**

§ 87(2)(b) testified that in the past, he has had issues with individuals breaking into his apartment every day. When he calls 911, officers do not respond and help him. Thus, § 87(2)(b) was confused as to why four officers responded to this incident for § 87(2)(b) but no officers respond to his 911 calls. § 87(2)(b) asked the officers if they all were crooked or if only the captain of the precinct was. PO Garcia told § 87(2)(b) to shut up, but § 87(2)(b) refused as he said he had freedom of speech. PO Garcia was still filling out paperwork and asked § 87(2)(b) for her date of birth. § 87(2)(b) who was standing three or four feet away from PO Garcia, pointed out that PO Garcia had her ID and thus had the information. PO Garcia again told § 87(2)(b) to shut up. PO Krauss approached § 87(2)(b) and grabbed both of his hands and PO Garcia grabbed § 87(2)(b) by his chest. The officers then held § 87(2)(b) and walked him backward into the apartment. § 87(2)(b) did not resist the officers and walked with them. § 87(2)(b) told the officers not to put their hands on him and stated that he would press charges. Once the officers walked § 87(2)(b) back near the stove, which was just past the main entrance, and they let go of him and reentered the hallway. § 87(2)(b) went back to the doorway and told PO Garcia that he was confused as to why the NYPD could not assist him but was able to send four officers for the domestic dispute that was occurring. § 87(2)(b) stood approximately three or four feet away from PO Garcia. PO Garcia asked § 87(2)(b) if it was his apartment and § 87(2)(b) responded that he lived in apartment 309. PO Garcia told § 87(2)(b) to go back into § 87(2)(b) apartment, to which § 87(2)(b) responded he did not have to. Sgt. Doxy, PO Garcia, and PO Krauss again approached § 87(2)(b) and pushed him back into the apartment to the stove where § 87(2)(b) fell back onto the floor. § 87(2)(b) could not describe what caused him to fall to the floor or how he fell to the floor (**Board Review 02**).

§ 87(2)(b) was uncooperative with the investigation. § 87(2)(b) was not interviewed as his testimony as not necessary to come to a conclusion for this allegation.

§ 87(2)(b) recorded a video of the incident and provided it to the investigation. Starting at the 01:35 mark of the timestamp visible at the bottom of the screen, PO Garcia is speaking with § 87(2)(b) and § 87(2)(b) interrupts, asking if he can say something. PO Garcia tells § 87(2)(b) to hold on. At 01:55, § 87(2)(b) asks the officers why § 87(2)(b) situation is bigger than his situation. The officers ignore § 87(2)(b) and speak to each other about the ongoing domestic incidents at the location. At 02:35, § 87(2)(b) tells the officers that the situation is petty, but that what has been going on in his apartment is not petty. The officers again ignore § 87(2)(b) and PO Garcia instructs § 87(2)(b) to fill out a DIR. At 03:40, § 87(2)(b) tells the officers that he is amazed and tells the officers that they are crooked. § 87(2)(b) then speaks louder and asks the officers if they are all crooked or if they have to obey. PO Garcia, who is filling out a report, asks § 87(2)(b) if he is going to shut up. § 87(2)(b) replies that he is not going to shut up, and that he has freedom of speech. § 87(2)(b) then tells PO Garcia that he, PO Garcia, is going to shut up. PO Garcia tells § 87(2)(b) that he is “two seconds away from discon.” § 87(2)(b) speaks louder and tells the officers that they cannot do anything to him because he hasn’t done anything. § 87(2)(b) then yells that he is grown, that he can say what he wants, and tells PO Garcia that he is crazy. At 04:23, PO Krauss tells § 87(2)(b) that he is not a part of the situation and tells him to go inside. § 87(2)(b) yells over PO Krauss as she speaks. Sgt. Doxy places a hand on § 87(2)(b) and tells him to go inside. PO Krauss again tells § 87(2)(b) to go back into the apartment. § 87(2)(b) tells the officers that he won’t go into the apartment and that he lives in the building. § 87(2)(b) then continues to yell at the officers while they fill out the DIR. At 05:35, PO Garcia asks § 87(2)(b) for her date of birth. § 87(2)(b)

begins to answer, but § 87(2)(b) yells over § 87(2)(b) and tells PO Garcia that he should have her date of birth because he has her ID. PO Garcia and PO Krauss order § 87(2)(b) to stop talking. PO Krauss then approaches § 87(2)(b) and pushes him into the apartment. At 05:58, Sgt. Doxy stands with his arm across the doorway blocking § 87(2)(b) path. At 06:04, § 87(2)(b) says to Sgt. Doxy repeatedly, “Excuse me sir, you cannot keep me here.” Sgt. Doxy orders § 87(2)(b) to stop. § 87(2)(b) then attempts to duck under Sgt. Doxy’s arm to reenter the hallway. Sgt. Doxy then pushes § 87(2)(b) into the apartment and says, “Let us do the report.” § 87(2)(b) walks back toward Sgt. Doxy and PO Garcia reaches over Sgt. Doxy and pushes § 87(2)(b) then screams at the officers telling them not to push him. The video does not show § 87(2)(b) falling to the floor **(Board Review 08)**.

PO Urbina’s BWC footage, starting at the 35:18 mark of the timestamp visible at the bottom of the screen, captures the same moment from a different angle. The footage shows that while Sgt. Doxy stood with his arm blocking the door, that § 87(2)(b) attempted to duck under his arm. Sgt. Doxy then pushes § 87(2)(b) back into the apartment **(Board Review 09)**.

None of the BWC footage captures § 87(2)(b) falling onto the floor **(Board Review 01)**.

PO Krauss testified that while the officers were engaging with § 87(2)(b) was becoming irate and speaking about the last time that he had called 911 and was upset about that circumstance, becoming increasingly upset. § 87(2)(b) was constantly talking and yelling over the conversation that PO Garcia and § 87(2)(b) were having, bringing up his circumstances and complaints. § 87(2)(b) interference made conducting the interview with § 87(2)(b) difficult. PO Krauss believed that § 87(2)(b) irate behavior was becoming a safety concern and wanted to isolate and contain § 87(2)(b) so that they could finish the DIR. PO Krauss placed her arm on § 87(2)(b) and guided him further inside of the apartment with a stiff arm. PO Krauss did not shove § 87(2)(b) **(Board Review 06)**.

Sgt. Doxy’s statement was consistent with PO Krauss’ statement **(Board Review 05)**. PO Garcia acknowledged that the video showed officers pushing § 87(2)(b) into the apartment, but he testified that he did not have an independent recollection of that happening **(Board Review 03c)**.

When appropriate and consistent with personal safety, members of service (MOS) will use de-escalation techniques to safely gain voluntary compliance. MOS are to use the minimum force necessary to effect an arrest. In determining whether the use of force is reasonable, MOS should consider the nature and severity of the crime, actions taken by the subject, duration of the action, immediacy of the perceived threat, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject’s violent history if known, presence of hostile crowd or agitators, and if the subject is under the influence of any substances. NYPD Patrol Guide Procedure 221-01 **(Board Review 10)**.

It is undisputed that while officers were investigating the domestic incident involving § 87(2)(b) and § 87(2)(b) that § 87(2)(b) repeatedly interjected and questioned officers about why they did not help him with his situation. It is further undisputed that § 87(2)(b) was ordered to go back into the apartment multiple times, that he refused, and that officers pushed him into the apartment. § 87(2)(b) alleged that he stumbled and fell to the floor, but could not provide any additional information about his fall, and the fall is not shown on any of the obtained video footage.

§ 87(2)(g) § 87(2)(b) was interfering in the officers’ investigation into the domestic dispute and refused multiple commands to go back into the apartment, § 87(2)(g)

Allegation E – Discourtesy: Police Officer Nicole Krauss spoke discourteously to § 87(2)(b)

Allegation F – Abuse of Authority: Police Officer Nicole Krauss threatened to remove § 87(2)(b) to the hospital.

Allegation G – Abuse of Authority: Police Officer Nicole Krauss threatened § 87(2)(b) with the use of force.

Although not alleged by § 87(2)(b) the following was captured on PO Garcia’s BWC footage: At 07:45, PO Garcia is out in the hallway with PO Krauss and § 87(2)(b) Sgt. Doxy is seen at the doorway of the apartment and § 87(2)(b) is heard screaming in the apartment at the officers. At 07:50, § 87(2)(b) asks PO Garcia not to be mad at her, and PO Garcia responds that he is not mad. PO Krauss asks PO Garcia, “Are we done?” PO Garcia responds that he lost his pen. PO Krauss says to PO Garcia, “Who gives a fuck about the pen, let’s get out of here. I’m tired of this.” § 87(2)(b) says to PO Krauss, “I don’t know what type of time you’re on, but I’m apologizing to him. I don’t got to apologize to you. That type of energy that you got going on, bitch I don’t give a fuck about you.” PO Krauss says to § 87(2)(b) “I’m about to fucking EDP you in two fucking seconds. You want to fight me? Let’s go. That’s no problem.” PO Garcia then places his left hand on PO Krauss’s shoulder and pulls her back. The officers then leave the location as § 87(2)(b) yells at the officers (**Board Review 04**).

PO Krauss testified that § 87(2)(b) suddenly became increasingly irate, and began to yell and curse at the officers. Although § 87(2)(b) mood shifted quickly for no apparent reason, PO Krauss did not observe any indication that § 87(2)(b) was a potential harm to herself or others. § 87(2)(b) called PO Krauss a “bitch” and threatened to fight her. PO Krauss responded with “Ok” and “alright” to § 87(2)(b) statements. After reviewing her BWC footage, PO Krauss recalled that she made the statement “Who gives a fuck about the pen.” She stated that she was speaking to PO Garcia and that she was talking to her partner and that the situation was stressful. PO Krauss also recalled making the statement, “I’m about to fucking EDP you in two fucking seconds.” She stated that she made this statement because § 87(2)(b) behavior shifted rapidly from being calm to hostile, and that she used the word “fucking” out of frustration and stress. Lastly, PO Krauss recalled that after § 87(2)(b) threatened to fight her, that PO Krauss responded, “You want to fight me? Let’s go. No problem.” PO Krauss testified that she would have arrested § 87(2)(b) if she attempted to fight, and that she was expressing that she would have no problem arresting her (**Board Review 06**).

Police officers must be courteous and respectful when dealing with civilians NYPD Patrol Guide, Procedure 203-09 (Board Review 11). While officers are allowed to use discourteous language during stressful situations, officers are only permitted to do so when scenes are so chaotic that the duty of courteousness and professional behavior should be overridden by the immediate need to maintain order Disciplinary Case No. 2017-17005 (**Board Review 12**).

An emotionally disturbed person is a person who appears to be mentally ill or temporarily deranged who must be taken into protective custody if officers reasonably believe that the person is likely to injure themselves or others. The procedure notes that officers should attempt to slow the pace of the incident, establish dialogue with the emotionally disturbed person while awaiting specialized personnel, have the emotionally disturbed person removed to a hospital by ambulance, and ride in the body of the ambulance with the emotionally disturbed person. Additionally, officers may restrain the individual if appropriate and remove any property that is dangerous to life or will aid

escape NYPD Patrol Guide Procedure 221-13 (**Board Review 07**).

Although the investigation credits that § 87(2)(b) mood shifted rapidly from calm to irate, the BWC shows, and PO Krauss also testified that there was no indication that § 87(2)(b) was a harm to herself or others. § 87(2)(g)

In addition, the BWC shows that PO Krauss used the word “fuck” several times. Although the first time PO Krauss was speaking to her partner, PO Krauss then made the statement “I’m about to fucking EDP you in two fucking seconds” to § 87(2)(b) PO Krauss testified that she used the word “fuck” out of frustration. § 87(2)(g)

Additionally, the BWC shows that when § 87(2)(b) threatened to fight PO Krauss, that PO Krauss replied, “You want to fight me? Let’s go. No problem.” PO Krauss testified that she was not implying that she would fight § 87(2)(b) but rather that she meant that if § 87(2)(b) attempted to fight her, that she would arrest her. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Garcia has been a member of service for three years and has been a subject in four additional CCRB complaints and 20 allegations, of which one was substantiated.:
 - 202008256 involved a substantiated allegation of Force - Chokehold against PO Garcia. The Board imposed charges which are pending.
- PO Krauss has been a member of service for six years and has been a subject in four additional CCRB complaints and six allegations, of which one was substantiated.:
 - 202107236 involved a substantiated allegation of Force – Nonlethal Restraining Device against PO Krauss. The Board imposed charges which are pending.
- Sgt. Doxy has been a member of service for 17 years and has been a subject in six additional CCRB complaints and seven allegations, of which one was substantiated.:
 - 201202321 involved a substantiated allegation of Abuse - Frisk against Sgt. Doxy. The Board imposed charges. Sgt. Doxy was found guilty and the NYPD assigned instructions.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 11, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint **(Board Review 14)**.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 06

Investigator: Inv. Thomas Juliano Inv. Thomas Juliano 07/20/2022
Signature Print Title & Name Date

Squad Leader: Jessica Pena IM Jessica Peña 7/25/2022
Signature Print Title & Name Date